HIGH COURT OF UTTARANCAL AT NAINITAL.

Writ Petition No. 219 (S/B) 2003

Bed Kumar Pandey S/o Sri R.P. Pandey,
Lecturer in Sociology,
Kisan Inter College, Kundeshwari,
Kashipur, District Udham Singh Nagar. ----Petitioner.

Vs.

1. The District Inspector of Schools, U.S. Nagar,
2. The Manager, Kisan Inter College,
   Kundeshwari, Kashipur, U.S. Nagar,
3. The Principal, Kisan Inter College,
   Kundeshwari, Kashipur, U.S. Nagar,
4. The U.P. Secondary Education Services Selection Board,
   Allenganj, Allahabad,
5. Sri Ashok Kumar Sharma, Teacher,
   Kisan Inter College, Kundeshwari,
   Kashipur, U.S. Nagar,
6. State of Uttaranchal, through Secretary Education,
   Govt. of Uttaranchal, Dehradun. ----Respondents.

Sri Rajeet Saxena, learned counsel for the petitioner.
Learned Standing counsel for State of Uttaranchal,
Sri D.V. Sharma, learned Senior Counsel for Committee of Management.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Ranjeet Saxena, learned counsel for the petitioner, learned Standing Counsel for State of Uttaranchal and Sri Dharma Veer Sharma, learned Senior Counsel who has put in appearance for the Committee of Management/ respondent nos. 2 & 3.

By means of this writ petition the petitioner, who is Lecturer (Sociology) in Kisan Inter College, Kundeshwari, Kashipur, district Udham Singh Nagar, has challenged the order dated 07.03.2001 passed by the Manager, Kisan Inter College, Kundeshwari, U.S. Nagar suspending the petitioner from his services.

Against the suspension order, the petitioner has earlier filed writ petition no. 1761/2002 Bed Kumar Pandey vs. The District Inspector of Schools and four ors. in which the Division Bench of this Court on 29.11.2002 has disposed of the writ petition with the direction to respondents to complete the enquiry preferably within a period of two months from the date of production of certified copy of the order and then serve show cause notice, if necessary, on the petitioner and thereafter to pass final order within a further period of fifteen days.

Submission of the petitioner is that in spite of the order passed by this Court on 29.11.2002, no final order has been passed by the respondents, as such, the suspension order may be quashed.

The respondents Management Committee as well as the District Inspector of Schools have filed separate counter affidavits. In para-3 of the counter affidavit filed by the District Inspector of Schools, it is stated that the Enquiry Committee, after holding departmental enquiry, has submitted its report to the Management and the Management vide its resolution dated 05.06.2001 resolved that the services of the petitioner be dismissed from the Institution and the recommendation to this effect was forwarded to the District Inspector of Schools, Udham Singh Nagar.

The petitioner was selected by the Education Services Commission. Under Intermediate Education Services (Penalty and Approval proceedings) Rule 1985, the power is vested on the Commission itself for approval or disapproval of the penalty proposed by the Committee of Management on the petitioner. Since, fate creation of State of Uttaranchal; Intermediate Education Service Commission Board has not yet constituted, hence the matter was referred by the District Inspector of Schools to the Director of Education who has also referred the matter to the Govt. for appropriate decision vide its

letter dated 01.09.2003 and the matter is presently pending before the Government.

The petitioner was suspended on the charges that he has obtained appointment by submitting forged marks sheets of B.A. and M.A., before the Service Selection Board and on receiving some complaint, the matter was referred to Kanpur University for ascertaining the correctness of the certificates and the marks sheets submitted by the petitioner. The Kanpur University has pointed out that the certificates are forged. But the counsel for the petitioner has denied these facts.

Certainly the matter in dispute is not to be decided by the High Court but the same is to be decided by way of departmental proceedings. Counsel for the respondents has contended that the proceedings are over and the Committee of Management has passed resolution for the dismissal of the petitioner from the services and recommendation in this regard has been sent to the District Inspector of Schools. The matter of approval or disapproval for termination of services of the petitioner is still pending before the Government.

Learned counsel for the petitioner has submitted that the State Govt. may be directed to take final decision on the matter regarding approval or disapproval of termination of the services of the petitioner and further directions be issued to the respondents to pay him suspension allowances as he has not been paid suspension allowances from the date of his suspension till date.

In the circumstances and reasons stated above, the respondent no. 6/ State Government is directed to take decision on the question of approval or disapproval of termination of service of the petitioner as Lecturer (Sociology) in Kisan Inter College, Kundeshwari, Kashipur, district Udham Singh Nagar in accordance with law as expeditiously as possible and the

petitioner may also be paid suspension allowance in accordance with law.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

September 17, 2005:
NCM: